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Attorneys for Defendant
UNION PACIFIC RAILROAD COMPANY
(sued herein as UNION PACIFIC CORPORATION)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FREDERICK N. BURGNER

No. C 07 05160 JF HRL

Plaintiff,

vs.

UNION PACIFIC CORPORATION,

Defendants.

**STIPULATION RE
PROTECTIVE ORDER
CONCERNING
CONFIDENTIAL DOCUMENTS
PRODUCED IN DISCOVERY**

(MODIFIED BY THE COURT)

This agreement is entered into by and between the undersigned attorneys on behalf of their respective clients, FREDERICK N. BURGNER ("Plaintiff") and UNION PACIFIC RAILROAD COMPANY, a corporation ("Defendant").

1. Plaintiff and Defendant (hereinafter "Parties") have requested the production of military records for inspection and copying in conjunction with discovery in this litigation, and,

2. These military records include sensitive information including employee personnel records, employee earnings records, medical records, and financial records (hereinafter "Confidential Material").

1 3. Copies of Confidential Material will be designated "Confidential."

2 4. Confidential documents, all copies thereof, and any summaries, charts or notes
3 made therefrom, and any facts or information contained therein or derived therefrom, shall be
4 disclosed only to the Court and/or to: (a) the parties; (b) counsel for the parties hereto and their
5 agents, employees, paralegals, or other secretarial and clerical employees or agents; (c) experts or
6 consultants retained by one or more of the parties to this action or their counsel, to assist in
7 preparation of this action for trial; (d) deponents and their counsel; (e) stenographic reporters and
8 videographers who are involved in depositions, the trial or any hearings or proceedings before the
9 Court in this action; and (f) witnesses at the trial of this action.

10 5. **Unless otherwise ordered by the court,**
11 [^] No person authorized hereunder to view copies of Confidential Material, or to make
12 notes therefrom, may disclose any portion of the subject matter or contents of either to any person
13 not authorized hereunder.

14 6. The Confidential Material, copies of any portion of the Confidential Material itself,
15 and all notes arising from examination of said Confidential Material, as well as discussions of the
16 contents thereof, shall be used only in connection with the instant case, and shall not be used in
17 connection with any other lawsuit or for any other purpose whatsoever, unless such Confidential
18 Material is independently discovered in another proceeding. Within 180 days following the
19 conclusion of this action, including appeals, if any, the parties and their counsel, shall destroy all
20 Confidential Materials and provide notice to the other parties' attorneys of record.

21 7. This Protective Order is without prejudice to reconsideration by the Court as
22 discovery continues.

23 8. The Parties may request that Confidential Material be filed under seal. However
24 [^] **made in compliance with Civil Local Rule 79-5.**
25 any such request shall be ~~subject to approval by the court, for good cause, upon noticed motion.~~

26 9. Any Party may move the Court for relief from, or modification of, this order at any
time, and each Party hereto reserves the right to contend in any such motion that documents
produced by another Party and information contained therein are not confidential. [^] The stipulation
In any challenge to confidentiality, the burden of persuasion shall be on the party claiming confidentiality.

1 does not constitute an admission as to the admissibility of any Confidential Material at trial.

2 10. The Parties agree to act in good faith in designating Confidential Material and agree
3 not to use this Stipulation for any purpose other than as stated herein.

4 IT IS SO STIPULATED.

5 DATED: November 18, 2008

TULLY RINCKEY P.L.L.C.

6
7 By /s/ STEVEN L. HERRICK
8 STEVEN L. HERRICK
9 Attorneys for Plaintiff
FREDERICK N. BURGNER

10 DATED: November 18, 2008

RANDOLPH CREGGER & CHALFANT LLP

11
12 By /s/ STEPHANIE L. QUINN
13 STEPHANIE L. QUINN
14 Attorneys for Defendant UNION PACIFIC
15 RAILROAD COMPANY
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CASE: *Burgener v. Union Pacific Railroad Company*, Case No. 5:07-cv-05160-JF HRL
COURT: USDC, Northern District of California, San Jose Division

I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of 18 years and not a party to the within above-entitled action; my business address is 1030 G Street, Sacramento, CA 95814.

On the date indicated below I served the within **STIPULATION RE PROTECTIVE ORDER CONCERNING CONFIDENTIAL DOCUMENTS PRODUCED IN DISCOVERY** on all parties in said action as addressed below by causing a true copy thereof to be:

_____ express mailed:

/s/ SUSAN R. DARMS
SUSAN R. DARMS

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No. C 07 05160 JF HRL

~~PROPOSED~~ ORDER ON
~~STIPULATION~~ RE
PROTECTIVE ORDER
CONCERNING
CONFIDENTIAL DOCUMENTS
PRODUCED IN DISCOVERY

FOR GOOD CAUSE APPEARING, the Court enters the Stipulation Re Protective Order
(as modified by the court)
Concerning Confidential military records Produced in Discovery as an order of the Court. For a
period of six months after the final termination of this action, this court shall retain
jurisdiction to enforce the protective order.

Dated: November 20, 2008

/s/ Howard R. Lloyd
UNITED STATES DISTRICT
COURT MAGISTRATE JUDGE

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/s/ SUSAN R. DARMS
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